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VIA ELECTRONIC MAIL / FAX TO FOLLOW [regs.comments@federalreserve.gov, FAX: 202-452-3819]

Ms. Jennifer L. Johnson
Secretary
Board of Governors of the Federal Reserve System
20th St. and Constitution Avenue, N.W.
Washington , DC 20551

RE: Comment for:
Docket No. OP – 1195

Dear Ms. Johnson:

Countrywide Home Loans, Inc., together with its affiliates (collectively, "Countrywide"), appreciates the opportunity to provide comment to assist in preparation of the Federal Reserve Board's study concerning prescreened solicitations, as directed by the Fair and Accurate Credit Transactions Act ("FACT Act").

INDUSTRY BACKGROUND:

Countrywide is one of the nation's largest mortgage banking companies, and in the fourth quarter of 2003, became the largest home mortgage lender in the United States. Countrywide funded more than $435 billion in home loans last year. Since its founding in 1969, its mission has been to make the dream of homeownership possible for as many Americans as possible. Countrywide's business began with FHA and VA lending, and the vast majority of the loans it funds and purchases today still go to FHA, VA and Fannie Mae/Freddie Mac-eligible borrowers.

Although Countrywide is known chiefly as a "prime" lender, Countrywide entered the nonprime lending market in 1996 as part of its effort to make homeownership achievable for the largest possible number of American families and individuals. Its nonprime lending programs have helped many individuals and families who are outside mainstream mortgage markets into their first homes, and have helped these individuals and families build and use equity to send their children to college, start their own businesses, and gain control over their financial destinies.

Prescreening programs have been instrumental in allowing Countrywide to extend the dream of homeownership and in helping consumers choose lending programs suitable for their particular needs.

OVERVIEW:

Countrywide believes that consumers are already well protected by the "opt out" provisions currently in effect under the existing provisions of the Fair Credit Reporting Act ("FCRA"). We respectfully submit that additional restrictions on such solicitations, far from benefiting the consumer, will actually restrict consumer access to information regarding current products and eligibility, and will decrease competition among members of the lending industry and increase the ultimate cost of credit to consumers.

BENEFITS OF PRESCREENING:

Prescreening allows lenders to identify potential customers in order to provide them with firm offers of credit that they are actually qualified to receive. As a result, consumers are more likely to receive information that is relevant and useful, rather than information about credit for which they may not even be eligible. Because prescreened solicitations enable consumers to focus on understanding the terms and features of credit programs for which they actually qualify, such offers allow consumers to better inform themselves and ultimately make better choices. With consumers able to compare offers for which they actually qualify, lenders are forced to act more competitively. This, in turn, decreases costs to borrowers and fosters creativity and innovation in credit product development. An added benefit is that specific offers to a preselected, targeted market segment reduce the volume of "general" solicitations to the public. This reduces the volume of irrelevant solicitations to a given consumer, decreases costs to lenders and ultimately decreases the costs of credit to consumers.

We offer the following recent examples, all of which resulted from a prescreened solicitation and offer of credit:

- Borrower "R" had an excellent payment history on his existing mortgage. With his refinance, he was able to pay off his 10% second mortgage, consolidate debt from two high-interest credit card accounts, and lower his total monthly payments by $100. He did this with a 6.25% loan with 1.00 point cost. He was able to obtain $3000 cash out to apply to education costs and a new car.

- Borrower "L", an auto mechanic, consolidated his existing 11.75% first and second mortgages with a 6.5% loan at 1.5 point cost, and got $56,000 cash out for home improvements and expansion of the family business.

- Borrower "A", a driver with a national overnight courier service, obtained a 30 year fixed refinancing at 6.75% at a cost of 1.5 points. Her $7,000 cash out allowed her to pay off her two automobile loans and reduce her total monthly payments by $800.

These are only a sampling of the many success stories enjoyed by consumers which began with a prescreened solicitation. In all cases, the borrowers stated that but for the prescreened offer, they would not have been aware that they qualified for a program that would benefit them financially.

SPECIFIC COMMENTS:

As requested, we present our views and suggestions with respect to each topic presented for comment:

- To what extent are insurance providers providing prescreened solicitations to consumers?

Countrywide has only general knowledge of the marketing practices of the insurance industry, but it is our impression that prescreened solicitations are not widely used by the insurance industry. Our own insurance affiliate does not make widespread use of prescreened solicitations.

- What statutory or voluntary mechanisms are available to a consumer to notify lenders and insurance providers that the consumer does not wish to receive prescreened solicitations?

Consumers may avail themselves of the existing "opt out" provisions of FCRA to prevent their names from appearing on lists prepared by CRAs. In addition, many lenders and financial institutions maintain their own programs for allowing existing customers to opt out of further solicitations. Finally, the Direct Marketing Association ("DMA") offers consumers the opportunity to sign on to its do-not-mail list. As a member of DMA, Countrywide is required to suppress the names of consumers appearing on the DMA list from its solicitation campaigns.

Countrywide currently provides consumers the ability to opt out of marketing solicitations. This opt out choice is available for mail, telemarketing and e-mail solicitations. The opt out applies to both prescreened and and non-prescreened solicitations. For instance, if the customer opts out of receiving mailings, that customers will not be mailed a prescreened offer or a non-prescreened offer in the future. During the prescreening process, files provided to the CRAs from Countrywide are scrubbed against Countrywide's internal opt out lists or the CRAs are provided with the Countrywide opt out lists so they can perform the scrub prior to releasing the file.

- To what extent are consumers currently utilizing existing statutory and voluntary mechanisms to avoid receiving prescreened solicitations? For example, what percent of consumers (who have files at consumer reporting agencies) opt out of receiving prescreened solicitations for credit or insurance?

Approximately 5% of Countrywide's customers elect to opt out of prescreened solicitations. Our experience is consistent with the 5% opt out rate for the entire financial services industry.

Figures obtained from the CRAs indicate that over the past three years, slightly over three million consumers per year successfully exercise their rights to opt out of prescreening lists prepared by the agencies. We believe that it is a fair conclusion that many more millions of consumers receive and review the notices, recognize the value of continuing to receive prescreened offers and thus affirmatively choose not to opt out.

- What are the benefits to consumers in receiving prescreened solicitations? Please be specific.

We see the benefits to consumers as multifold, including greater awareness, decreased costs, increased competition, and enhanced product quality and efficiency. We view prescreening as the first step in the loan qualification process.

<u>Awareness.</u> Campaigns targeted toward consumer segments chosen according to specific criteria inherently enhance consumer awareness of credit options available and relevant to them. In many cases, consumers are not aware that they qualify for programs of great benefit to them until they are identified through prescreening. We note this to be especially true in our nonprime market segment, where consumers often have limited or no access to means of "credit shopping" electronically. Prescreening also increases the relevancy of an offer to a particular customer. For example, we may prequalify a customer for a home equity line of credit and then deliver a debt consolidation message to the customer with a high level of credit card debt. The customer now knows that she qualifies for a HELOC loan and that she can benefit from consolidating high-cost credit card debt at a lower rate of interest.

<u>Cost.</u> Prescreened solicitations allow lenders to restrict their offers to those consumers who are known to qualify. Such targeting increases the likelihood of response, as well as the likelihood that the consumer will successfully close on the offered loan. This, in turn, decreases overall costs to the lender, thereby ultimately decreasing costs to borrowers. In addition, the greater specificity of prescreened campaigns results in savings to consumers in terms of time.

<u>Competition.</u> Prescreening increases competition among lenders by making it easier for consumers to compare rates and programs. The "shopping" process is much more streamlined for a consumer who is aware that she qualifies for a specific program offered by a specific lender; comparison of costs and features becomes easier and faster. It follows that lenders are forced to

be more competitive in their pricing when pursuing a borrowing market segment that knows what it wants and, due to prescreening, knows what it can get.

Product Quality. Careful review of response rates associated with prescreened campaigns allows lenders to be more responsive to consumer preferences for product features and options, thereby encouraging innovation and creativity with regard to product development and design. Special products and programs can be tailored to specific situations for segments identified as having common characteristics.

Efficiency. This may well be the most significant benefit of prescreening to the consumer. Prescreened offers sent to consumers already determined to qualify largely eliminate the traditional "trial and error" method of consumers shopping for loans. Without prescreening, consumers are likely to expend time and effort pursuing programs for which they cannot qualify, making it much more difficult for them to compare features and prices. Repeated rejection of credit applications resulting from this trial and error process may further damage or hinder the consumer's prospects for obtaining credit. Prescreening allows consumers to be much more aware of their available options and equips them to shop effectively.

- What significant costs or other adverse effects, if any, do consumers incur as a result of receiving prescreened solicitations? Please be specific. For example, to what extent, if any, do prescreened solicitations contribute to identity theft or other fraud? What percent of fraud-related losses are due to identity theft emanating from prescreened solicitations?

Countrywide does not see that the customer incurs any additional costs or adverse effects from receiving prescreened solicitations; indeed, for all the reasons enumerated above, we feel that such solicitations are a substantial benefit to the consumer. The prescreening process pays for itself because it enhances a lender's ability to target its marketing efforts and therefore increase response rates. Reduced cost to lenders ultimately reduces cost of credit to consumers.

Countrywide does not believe that prescreening increases the potential for identity theft. As has been pointed out in other studies, prescreened offers include only names and addresses, which constitute less information about an individual than is revealed in a telephone directory listing. Prescreening actually offers two opportunities to confirm a consumer's identity: (i) at the time of prescreening, and (ii) at the time of response. The consumer must complete a response process, supplying additional personal data for use in the identification process. Like many other large-scale mortgage lenders, Countrywide utilizes an application process that weeds out and detects imposters. In practical effect, prescreening actually minimizes the potential for fraud in connection with mortgage loans.

- What additional restrictions, if any, should be imposed on consumer reporting agencies, lenders, or insurers to restrict the ability of lenders and insurers to provide prescreened solicitations to consumers? How would these additional restrictions benefit consumers? How would these additional restrictions affect the cost consumers pay to obtain credit or insurance, the availability of credit or insurance, consumers' knowledge about new or alternative products and services, the ability of lenders or insurers to compete with one another, and the ability of creditors or insurers to offer credit or insurance products to consumers who have been traditionally underserved? Please be specific.

Countrywide respectfully submits that no additional restrictions should be imposed upon CRAs, lenders or insurers regarding prescreened solicitations, and that any such additional restrictions, far from benefiting consumers, will instead make the obtaining of credit more onerous and costly. As discussed above, the reduced ability of lenders to target campaigns which would result from further restrictions upon prescreening would lower response rates, resulting in lower rates of conversion from solicitation to funding at higher cost. Unavoidably but inevitably, such higher costs will end up being borne by the market segment least equipped to bear them.

Additional restrictions will also adversely affect the availability of credit. Fewer prescreened offers will necessitate that marketing efforts concentrate more on vague, generic offerings to a broad audience, thereby increasing denial rates due to the “trial and error” credit shopping that consumers will be forced to utilize.

More restrictions on prescreening will decrease product knowledge available to consumers, and will decrease their awareness of what products are available to them specifically. Consumers would also lose the cumulative effect of repeated offers targeted to them, and may miss an opportunity to benefit from a period of low rates and attractive terms that may be available during periods when creditors are forced to be more competitive.

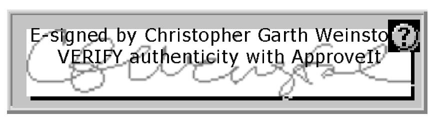
Finally, lenders would not be as competitive among themselves. Restrictions on the ability of lenders to tailor products based on targeted campaign response rates would hamper product development and evolution of competitive strategies and would decrease the tendency of lenders to tailor niche products to small, carefully selected groups. Products and features available on the market will likely become much more homogenous. Targeted products mean that more product details and features are specified in offers, increasing the specificity of product information and thereby sharpening competition.

The market segment that would feel the adverse effects of such restrictions most strongly would be the segment least equipped to bear the effects – the historically underserved portion of the borrowing community. For unsophisticated consumers, home buying, and the associated obtaining of credit, is a confusing and often intimidating process. Restrictions on prescreened offers would continue and emphasize this mystique. Historically underserved segments do not have the extensive access to internet portals and computer-based shopping channels that are available to mainstream borrowers. A recent survey has shown that out of 3,000 first time homebuyers, 46% checked with one or more lenders regarding credit availability before shopping for a home. Prescreened offers allow this borrowing segment to venture out into the buying market much better equipped to make intelligent, realistic decisions.

In closing, Countrywide suggests that before additional restrictions are ultimately deemed necessary, the Board and Congress should perform further investigation to confirm the existence, scope and source of the alleged abuses that have created the perceived need for such additional restrictions. Countrywide, and other similar reputable and large-scale lenders, do more than is required by the regulatory framework for consumer protection. We submit that specific identification and confirmation of the practices of "bad actors" in the lending industry, and restrictions carefully tailored to their specifically identified abuses, are more desirable and prudent than a broad-brush restrictive scheme that could well ultimately produce more harm than good. In short, any new restrictions – to the extent they are called for – should be narrowly tailored to address actual existing harm to consumers.

Thank you for the opportunity to comment upon these matters.

Sincerely,



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